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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/151413

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 19, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on September 23, 2013, at Racine, Wisconsin.

NOTE: The record was held open to give Petitioner an opportunity to supplement the record with some of her medical bill. Petitioner submitted an approximately 139 page fax. It has been marked as Exhibit 6 and entered into the record.

The issue for determination is whether the Racine County Department of Human Services (the agency) correctly determined Petitioner's FoodShare benefits effective September 1, 2013.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: Rhonda Kramer, Lead Economic Support Specialist  
Racine County Department of Human Services  
1717 Taylor Ave  
Racine, WI 53403-2497

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.

2. On July 5, 2013, Petitioner completed a review for FoodShare and was approved for benefits in the amount of \$103.00 per month. (Testimony of [REDACTED])
3. On July 30, 2013, Petitioner contacted the agency and reported that she was no longer paying an insurance premium for supplemental health insurance through Physician's Mutual. (Testimony of Petitioner; testimony of [REDACTED])
4. On August 5, 2013, the agency sent Petitioner a notice that effective September 1, 2013, her FoodShare benefits would be decreased from \$103.00 per month to \$16.00 per month. (Exhibit 1, pg.3; Exhibit 5)
5. Petitioner filed a request for Fair Hearing that was received by the Division of Hearings and Appeals on August 19, 2013. (Exhibit 1)
6. Petitioner's sole source of income comes from Social Security in the amount of \$1544.00 per month. (Exhibit 5; testimony of Petitioner)
7. Petitioner pays utilities, pays \$322.60 per month in property taxes, pays \$482.11 per month for mortgage and pays \$77.67 per month for homeowner's insurance. (Exhibit 5; testimony of Petitioner)
8. Petitioner lives alone and is over age 60. (Testimony of Petitioner)
9. Petitioner has a number of medical expenses, because after terminating her coverage through Physician's Mutual, she enrolled in AARP/MedicareComplete supplemental insurance, which is administered through United Health Care. Instead of paying premiums, Petitioner pays various co-pays for medical services and prescriptions. (Testimony of Petitioner; Exhibit 6)

### DISCUSSION

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has a member over age 60. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FSH § 4.3.1.* The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH §4.1.1.*

Once a household passes the gross income test the following deductions are applied to determine the FoodShare allotment. (*FSH, at § 4.6*):

- (1) a standard deduction –

This was is \$149 per month for a household of 1-3 people during the time in question, but effective October 1, 2013, was changed to \$152 per month, *7 CFR § 273.9(d)(1)*:

- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5).*

During the time in question, the heating standard utility allowance (HSUA) was \$442, but Effective October 1, 2012, it was changed to \$450.00 per month.

During the time in question there was a cap of \$469.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member. Effective October 1, 2012, it was changed for \$478 per month.

*FSH, §§ 4.6.7.1 and 8.1.3; Ops Memo 13-27*

The term ‘disabled’ is a term with a definition as to the FoodShare program:

### **3.8.1.1 EBD Introduction**

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).

*FSH, §3.8.1.1.*

In the case at hand, Petitioner disagrees with the agency’s calculation of her excess medical expenses. In determining Petitioner’s excess medical expenses, the agency included her \$104.90 Medicare premium, \$47.03 in Walgreens expenses and a \$31.85 per month Physician’s Mutual dental insurance premium. However, Petitioner has submitted several pages of other out-of-pocket medical expenses that she incurred after switching to the co-pay based insurance coverage through AARP/United Health Care. Consequently, the agency will have to review Exhibit 5 and re-determine Petitioner’s FoodShare benefits effective September 1, 2013 forward.

In the event Petitioner has not sent a copy of Exhibit 5 to the agency, I will forward a copy of the Exhibit to the agency for their review.

If Petitioner still disagrees with the agency’s determination of her benefits, she will have to file a new request for fair hearing.

### **CONCLUSIONS OF LAW**

The agency did not correctly determine Petitioner’s FoodShare allotment effective September 1, 2013 forward.

**THEREFORE, it is**

**ORDERED**

That the agency review Exhibit 5, re-determine Petitioner’s excess medical expenses and re-determine her FoodShare allotment effective September 1, 2013 forward. The agency shall then send Petitioner a new notice of decision, advising her of its determination. The agency shall take all administrative steps necessary to complete these tasks within 10 days of this decision.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

## **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

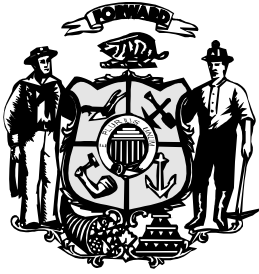
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 14th day of October, 2013.

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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on October 14, 2013.

Racine County Department of Human Services  
Division of Health Care Access and Accountability